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2
3 STATE OF OREGON
4 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
5 DIVISION OF FINANCIAL REGULATION

6 In the Matter of:

Case No. INS-16-0196

7 KYLE CERKONEY,

8 Respondent.

FINAL ORDER TO CEASE AND
DESIST, REVOKING LICENSE AND
ASSESSING A CIVIL PENALTY,
ENTERED BY DEFAULT

9 On April 20, 2016, the Director of the Department of Consumer and Business
10 Services (“Director”), by and through the Division of Financial Regulation (“Division”),
11 properly served Notice on Kyle Cerkoney (“Respondent”) that the Director intended to
12 revoke Respondent’s Resident Insurance Producer License and assess a civil penalty.

13 The Notice offered Respondent an opportunity for a hearing, if requested within
14 30 days. The Notice further informed Respondent that if a hearing was not conducted
15 because Respondent did not timely request a hearing or otherwise defaulted, then the
16 designated portion of the Director’s file and all materials submitted by Respondent in this
17 case would automatically become part of the contested case record for the purpose of
18 proving a *prima facie* case.

19 The Director did not receive from Respondent a request for a hearing and did not
20 conduct a hearing.

21 The Director finds that the record of this proceeding proves a *prima facie* case.

22 The Director makes the following Findings of Fact, Conclusions of Law, Orders,
23 and Notice of Right to Judicial Appeal.

24
25 FINDINGS OF FACT

26 The Director FINDS that:

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387





1 1. Respondent has an Oregon Resident Insurance License number 222192
2 (“License”), which expires on December 31, 2016. Respondent’s national producer
3 number is 15742496.

4 2. At all times relevant to this matter, Respondent was an agent for Farmers
5 Insurance Company of Oregon (“Farmers”).

6 3. On or about May 26, 2011, Respondent completed and submitted a life
7 insurance application for Cody Evans (“Evans”) without his knowledge and consent.
8 Respondent forged Evans’ signature on life insurance application documents including
9 documents that would allow the release of Evans’ health related information and a bank
10 authorization to withdraw premium payments from Evans’ account.

11 4. On August 17, 2011, Respondent prepared a Farmers Memorandum of
12 Automobile Insurance (“MAI”) with policy number 18838-86-90 for Alicia Aguilar
13 (“Aguilar”) listing Aguilar’s 2006 Toyota Matrix and a 1996 Jeep Cherokee with VIN
14 #1J4FJ28S9TL230285 that did not belong to her. Adding the Jeep to the policy gave
15 Aguilar a multi-car discount. Respondent forged Aguilar’s signature on the MAI without
16 Aguilar’s knowledge or consent. Aguilar requested that Respondent remove the Jeep
17 multiple times from her policy but Respondent failed to do so until he was contacted by
18 the Division.

19 5. During the Division’s investigation, it was discovered that Respondent closed
20 his office at 7440 SW Hunziker Street, Suite A, Tigard, Oregon in October or November
21 2013. Respondent did not provide notice to the Division.

22 6. It was discovered that Respondent moved from the address of record to a new
23 address in October or November of 2013. Respondent failed to update his address with
24 the Division. On September 4, 2014, Respondent admitted to changing his residence
25 again and did not update the address of record on his license until December 23, 2014.
26

1 CONCLUSIONS OF LAW

2 The Director CONCLUDES that:

3 7. ORS 744.074(h) states that the Director may place a licensee on probation or
4 suspend, revoke or refuse to issue or renew an insurance producer license and may take
5 other actions authorized by the Insurance Code for using fraudulent, coercive or
6 dishonest practices or untrustworthiness in the conduct of business. Respondent violated
7 this statute by submitting a life insurance application without the client’s knowledge or
8 consent and adding a vehicle to a policy that did not belong to the policy holder.

9 8. ORS 744.074(k) states that the Director may place a licensee on probation or
10 suspend, revoke or refuse to issue or renew an insurance producer license and may take
11 other actions authorized by the Insurance Code for forging another persons name to an
12 application for insurance or to any document related to an insurance transaction.
13 Respondent forged Evans’ signature on a life insurance application and forged Aguilar’s
14 signature on an auto policy application.

15 9. ORS 744.068(4)(b) requires insurance producers to notify the division of the
16 opening or closing of a location at which the producer transacts business within 30 days
17 after the date of change. Respondent did not inform the Division that he had closed his
18 business location within 30 days.

19 10. ORS 744.068(4)(c) requiring an insurance producer to notify the Division of a
20 change of residence within 30 days after the date of change. Respondent failed to inform
21 the Division of change of residence within 30 days.

22 11. Under ORS 731.988(1) the Director may impose a civil penalty of up to
23 \$1,000 per violation upon any individual who violates a provision of the Insurance Code.

24
25 ORDERS

26 Now therefore, the Director issues the following Orders:

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1 12. As authorized by ORS 731.252(1), the Director ORDERS Respondent to
2 CEASE AND DESIST from violating any provision of the Oregon Insurance Code or the
3 administrative rules promulgated thereunder.

4 13. Based upon the foregoing and in accordance with ORS 731.988(1), the
5 Director ORDERS a CIVIL PENALTY of \$2000.

6 14. The Director, pursuant to ORS 744.074, hereby REVOKES Respondent's
7 Oregon Resident Insurance Producer License.

8
9 SO ORDERED this 23rd day of May, 2016 in Salem,
10 Oregon.

11
12 PATRICK M. ALLEN, Director
13 Department of Consumer and Business Services

14 /s/ David Tatman
15 David C. Tatman, Chief of Enforcement
16 Division of Financial Regulation

17 NOTICE OF RIGHT TO JUDICIAL APPEAL

18 You are entitled to judicial review of this order in accordance with ORS 183.482.
19 You may request judicial review by filing a petition with the Court of Appeals in Salem,
20 Oregon, within 60 days from the date this order is served.

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